

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937

Bail Appl..No. 4348 of 2015

CRIME NO. 33/2003 OF PALLICKAL POLICE STATION, THIRUVANANTHAPURAM

PETITIONER(S)/3RD ACCUSED:

**NISAM, AGED 35 YEARS,
S/O.ASHRAF, LAPNA MANZIL, THOLIKKUZHI,
PULLUPANA P.O, KADAKKAL, KOLLAM.**

BY ADV. SRI.LIJU. M.P

RESPONDENT(S)/COMPLAINANT:

**STATE OF KERALA,
REP. BY SUB INSPECTOR OF POLICE,
PALLICKAL POLICE STATION, THIRUVANANTHAPURAM DIST.
REP. BY PUBLICPROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27-07-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

K.HARILAL, J.

B.A. No.4348 of 2015

Dated this the 27th day of July, 2015.

O R D E R

This is an application filed under Section 439 of the Code of Criminal Procedure seeking regular bail.

2. The petitioner is the third accused in Crime No.33/2003 of Pallilckal Police Station, Thiruvananthapuram, registered against them alleging offences under Sections 143, 147, 148, 295, 458, 323, 324, 326, 308 & 427 read with Section 149 of the Indian Penal Code and Section 27 of the Arms Act. The prosecution case is that on 24.2.2003 at 11 P.M. the petitioner along with other accused persons trespassed into the compound of Muthiyakonam Sree Bhagavathi Temple, committed mischief there, threatened the office bearers of the temple and caused injuries to some of them and thereby committed the offences alleged against them.

3. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

4. The learned counsel for the petitioner submits that pursuant to the filing of final report he has taken bail from the trial court and he was regularly appearing before the court. Thereafter, he got employment abroad and thereby he was constrained to leave India. So he could not face the trial. In that context, the learned Judge cancelled the bail bond and issued warrant against him. All other accused faced trial and now they stand acquitted of the offences.

5. The petitioner is also willing to face the trial and with that intention he has returned from Gulf on 9.7.2015 and surrendered before the trial court on 15.7.2015. The learned counsel further submits that the petitioner could not appear before the trial court at the time of trial on the sole reason that he went abroad seeking employment and there was no wilful default from his part in not appearing before the court in terms of the bail bond executed by him.

6. The learned Public Prosecutor, on instruction, submits that the petitioner was absconding for the last more than several years and the matter is pending in L.P.

7. Indisputably, the petitioner was found absconding for the last several years. But, having regard to the fact that he is ready and willing to face trial and surrendered before the court for the said purpose, the petitioner can be released on bail on stringent conditions. This application is accordingly allowed and the petitioner is granted bail on the following conditions:

- i. The petitioner shall be released on bail on his executing a bond for Rs.1,00,000/- (Rupees One lakh only) with two solvent sureties each for the like sum to the satisfaction of the Additional Sessions Court-IV, Thiruvananthapuram.
- ii. The petitioner shall produce his original passport before the learned Additional Sessions Judge.
- iii. If any of the conditions is violated, the bail granted shall stand cancelled and the learned Sessions Judge concerned, on being satisfied of the said fact, may take such proceedings as are available to him in law.

K. HARILAL, JUDGE

okb.